IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.989 OF 2003

Mr Patric Joseph Pinto and anr. .. Petitioners.

Vs

1. State of Maharahstra and ors. Respondents.

Mr S.Patil, for the petitioners.
Mr A.N.Talreja, for respondent no.4.
Mr M.S.Mhambre, APP for respondent no.1.

CORAM : SMT.RANJANA DESAI & D.B.BHOSALE,JJ.

DATED : 16th APRIL, 2007

P.C.:

1. We have heard the learned counsel for the petitioners,the learned counsel for respondent no.4 and the learned APP for the respondent-State. The substantive prayer made in this petition is as under :

> "(a) This Hon'ble Court be pleased to issue Writ of Mandamus or any other suitable writ or direction transferring the (i) Summary Suit No.3612 of 2001 pending in the Bombay City Civil Court, Bombay, (ii) Summary Suit No.2325 of 2001 in Bombay City Civil Court, Bombay, (iii) Case no. 355/S/2002 pending in Court of Additional Chief Metropolitan Magistrate, 14th Court at Girgaon, (iv) Criminal Case No.605/S/2002 pending in Court of the Additional Chief Metropolitan Magistrate's 21st Court at Bandra, Mumbai, (v) Criminal Case No.607/s/2002 pending in Court of the Additional Chief Metropolitan Magistrate, 21st Court at bandra, Mumbai, (vi) Criminal Case no.608/S/2002 pending in the court of the Additional Chief Metropolitan Magistrate's 21st Court at Bandra, Mumbai, (vii) Criminal Case No.987/S/2000 pending in Court of the

> Additional Chief Metropolitan Magistrate's 9th Court at Bandra, Mumbai, (viii) Criminal Case No.407/S/2002 pending in Court of the Addl.Chief Metropolitan Magistrate's 30th Court at Kurla, Mumbai to the Designated Court, i.e. the Court of Sessions for Greater Bombay, Bombay."

Insofar as the prayer for transfer of the Summary Suits is concerned, it is not possible for us even to consider this prayer since no criminal writ petition can be filed making such a prayer. Insofar as the prayer that cases pending in the Magistrates' Courts which are filed under section 138 of the Negotiable Instruments Act may be transferred to the Designated Court is concerned, in view of the order of the Supreme Court dated 18.11.2005 passed in Special Leave to Appeal (cri) no(s). 406-409/2004, such a prayer cannot be entertained now. Admittedly, this Court has struck down the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act,1999 as unconstitutional and the above Special Leave Petition filed challenging the judgment of this Court has been admitted by the Supreme Court. The Supreme Court has passed the following interim order :

> "In cases where investigations are in progress the prosecuting agency shall continue with the investigation. But there shall not be further prosecutions of the accused persons and as regards pending cases the status quo as on today shall be maintained. It is submitted that in 9 cases already accused persons have been convicted and the convicted persons would be at liberty to apply for bail and the court

> would be at liberty to pass order granting bail. The interim attachment granted by the competent authority shall subsist until further orders. However, in cases where applications for release of attachment have been filed the same should be disposed of in accordance with law by separate orders. There shall not be sale of attached properties. The authorities shall not take any coercive steps to recover the amount under the Act."

In view of the above order, there is no question of transferring the cases filed under the Negotiable Instruments Act to the Designated court, assuming it can be done. That prayer is, therefore, rejected.

2. The learned counsel for the petitioners contended that it would be convenient if all the cases which are filed under the Negotiable Instruments Act are assigned to one Magistrate. In that connection, if the petitioners are so advised they may make appropriate application to the appropriate court with due notice to other side. Needless to state that if such an application is made, the court will consider it in accordance with law. In the circumstances, we dismiss the petition and the interim order of stay stands vacated.

3. We direct the office to inform all the Magistrate Courts where the cases in which the petitioners are concerned,are pending that the interim relief granted by this court is vacated and the trial courts should proceed with the trials. Considering

the fact that the interim relief was granted as far back as on 10.7.2003 we direct the trial Court to expeditiously dispose of the cases preferably within a period of six months from the date of receipt of this order by them. Parties shall cooperate. We direct learned counsel appearing for both sides to produce a copy of this order to the learned Magistrates before whom the cases are pending within two weeks from today.

(D.B.BHOSALE,J.) **(SMT.RANJANA DESAI,J.)**